

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 618 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE D.G.KARIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

RAMJI KESHU

Appearance:

MR. SR. DIVETIYA APP for Petitioner
SERVED for Respondent No. 1
UNSERVED for Respondent No. 2

CORAM : MR.JUSTICE D.G.KARIA

Date of decision: 13/03/96

ORAL JUDGEMENT

Heard Mr.S.R.Divetiya, learned APP for the respondent State.

Respondent no.1 (accused No.2) could not be served as he left his residence for last three years and his whereabouts is not known. Respondent no.2 is duly served.

In the facts of the case, I have heard Mr.

Divetiya on merits of the appeal

The State has preferred this regular appeal against the order of acquittal of the applicant respondent accused for the offence under sections. 325, 504 and 114 of Indian Penal Code. The said acquittal order came to be passed on March 3, 1993 by the learned Metropolitan Magistrate, Court No.20, Ahmedabad in Criminal Case No. 719 of 1987. As is recorded by the learned Magistrate in Paras 3 and 4 of his judgment, the said criminal case was fixed for recording of evidence on February 13, 1989, but inspite of issuance of summon several time, the prosecution did not serve the summons on any of the prosecution witnesses and the summons were produced without any endorsements thereon. Inspite of long period of four years having lapsed, the prosecution did not bother to serve summons on any of the prosecution witnesses. The learned Magistrate, therefore, ordered to acquit the accused persons for want of any evidence on record. The learned Magistrate was justified in recording order of acquittal in absence of any evidence in support of the prosecution case, inasmuch as the prosecution, though given several chances, did not bother to produce the prosecution witnesses, nor summons were served for long period of four years. In this peculiar facts and circumstances of the case, there is no substance in the appeal. The appeal is, therefore, liable to be dismissed. Accordingly the same is dismissed.

In the result, this appeal is dismissed.
